

1 SCOTT D. LEVY (Tex. Bar No. 24000598)

2 **SCOTT D. LEVY & ASSOCIATES PC**

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8
9 ATTORNEY FOR RELATORS,

10 Nyoka Lee and Talala Mshuja

11
12
13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION
16

17 UNITED STATES OF AMERICA, ex :
18 Rel. NYOKA JUNE LEE and TALALA : Case No. CV-07-01984 PSG
19 MSHUJA : (MANx)
20 :
21 Plaintiffs, :
22 VS. :
23 :
24 CORINTHIAN COLLEGES, INC. :
25 ERNST & YOUNG LLP; DAVID MOORE; : Hearing:
26 AND, JACK MASSIMINO, :
27 : Hon. Philip S. Gutierrez
28 Defendants. : Courtroom No. 790
29 : April 2, 2012
30 : 1:30 p.m.
31
32

33 **DECLARATION OF SCOTT D. LEVY ("LEVY")**
34

35 I, Scott D. Levy, state and declare as follows:

36 1. Mark I. Labaton was a partner at Kreindler & Kreindler when
37 this suit was filed. Mark I. Labaton and Kreindler & Kreindler, were co-

1 counsel in this case from the filing of the case through the time the Notice of
2 Appeal was filed. After the Original Complaint was dismissed, Kreindler &
3 Kreindler notified Levy that it was going to withdraw as counsel. Kreindler
4 & Kreindler, however, agreed to file the Notice of Appeal as an
5 accommodation to Levy, who was not admitted to practice in the Court.

6 2. Mark I. Labaton and Kreindler & Kreindler filed their notice of
7 withdrawal in the U.S. Court of Appeals for the Ninth Circuit after the
8 appeal was docketed. The Ninth Circuit granted the motion to withdraw.

9 3. Mark I. Labaton left Kreindler & Kreindler, and has now joined
10 the firm of Motley Rice LLP a year and a half ago.

11 4. Hilary B. Taylor is also listed on the Docket Sheet as counsel
12 with Kreinder & Kreindler. Taylor was an associate and left Kreindler &
13 Kreindler several years ago.

14 5. Kreindler & Kreindler, Mark I. Labaton, and Hilary B. Taylor
15 were unable to file a notice of withdrawal in the District Court while the
16 case was on appeal because the District Court Docket Sheet for the case was
17 closed while the case was pending in the Ninth Circuit

18 6. The current Docket Sheet for the case reflects that Mark I.
19 Labaton and Motley Rice LLP, and Hilary B. Taylor of Kreindler &
20 Kreindler are co-counsel on behalf of the Relators. Motley Rice LLP,

1 however, has never entered an appearance or participated in the case. All
2 counsel were of the belief that Mark I. Labaton, Hilary B. Taylor, and
3 Kreinder & Kreindler notice of withdrawal filed in the Ninth Circuit
4 terminated the role of co-counsel the case.

5 7. A courier presented various pleadings for filing at the Clerk's
6 window today, February 24, 2012. The Clerk who received the pleadings
7 refused to "file" them with the Court because the case is designated for
8 electronic filing. The pleadings listed only Scott D. Levy as counsel of
9 record for the Relators. Scott D. Levy has never been admitted *pro hac vice*
10 to practice in the Central District of California.

11 8. Mark I. Labaton is listed as the ECF filer in the case. But the
12 firm Motley Rice LLP has never entered an appearance as counsel of record
13 or agreed to represent the Relators. I have begun discussions with firms
14 with offices in the Central District of California about undertaking all or part of
15 the representation of the Relators, including Motley Rice LLP.

16 9. I had the following pleadings presented by courier to the Clerk
17 of Court for filing on February 24, 2012:

18 A. Relators' Opposition To Motions To Dismiss First Amended
19 Complaint By Corinthian Colleges, Inc., David Moore And Jack D.
20 Massimino (Doc. 82), And By Ernst & Young Llp (Doc. 81)
21

22 B. Relators' Motion To Strike Declaration Of Stacy Handley Filed By
23 Corinthian Colleges, Inc., David Moore, And Jack Massimino In

1 Support Of Their Motion To Dismiss_Relators' First Amended
 2 Complaint (Doc. 83, 83-1, 83-2, 83-3, And 83-4); Request For
 3 Hearing
 4

5 C. Relators' Opposition To Ernst & Young LLP's Request To Take
 6 Judicial Notice; Request For Hearing
 7

8 D. Relators' Request To Take Judicial Notice Of Order Of Dismissal,
 9 Judgment And Mandate In *United States Ex Rel. Steven Fuhr V.*
 10 *Corinthian Colleges, Inc*, No. 07-Cv-1157 (C.D. Cal.) (Guilford, J.)
 11 (Docs. 23, 37, 40, 47)
 12

13 E. Certificate of Service
 14

15 10. I telephoned Deputy Clerk Wendy Hernandez to notify her of
 16 the "Notice of Document Discrepancies." I indicated I would file this
 17 Declaration informing the Court of the change in status of Mark I. Labaton,
 18 Hilary B. Taylor, Kreinder & Kreindler, and Motley Rice LLP. I telephoned
 19 Mark I. Labaton today and informed of the ambiguity about the notice of
 20 withdrawal filed by Kreindler & Kreindler, of which he was unaware. In the
 21 meantime, Mark I. Labaton has agreed to file the pleadings on my behalf
 22 since I do not have an ECF number.

23 I declare under penalty of perjury under the laws of the United States
 24 that the foregoing is true and correct and that this declaration was executed
 25 this 24th day of February 2012 at Houston, Texas.
 26

27 _____//SDL//_____
 28 Scott D. Levy